IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 2ND AUGUST 2007 / 11TH SRAVANA 1929

Bail Appl..No. 4648 of 2007()

CRIME NO.151 OF 2007 OF PULIKKEZHU POLICE STATION

: PETITIONER/IST ACCUSED

SUNILKUMAR. AGED 50 YEARS,
S/O.PEETHAMBARAN, KUNNATHU PUTHANPURAKKAL,
PERINGARA P.O.,THIRUVALLA.

BY ADV. SRI.R.REJI

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
REPRESENTED BY THE SUB INSPECTOR OF POLICE,
PULIKEZHU POLICE STATION.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 02/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No. 4648 of 2007

Dated this the 2nd day of August, 2007

ORDER

Application for anticipatory bail. The petitioner is the 1st accused. Allegations are raised, inter alia, under Section 384 I.P.C. The crux of the allegations is that the petitioner along with the co-accused (altogether there are 5 accused persons) stopped vehicles in a public road and resorted illicit and forcible collection of amounts. The defacto complainant was informed of the illegal activities which were going on the road by some earlier victims who came in the opposite direction. The defacto complainant was also subjected to the same forcibly. As he had obtained prior information, he had concealed the amount that he had and therefore the miscreants did not succeed in extracting the money from the defacto complainant. Crime has been registered. The petitioner is named in the F.I.R. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. False allegations are being raised on account of political animosity. The petitioner had switched political loyalties from the political party to which the defacto complainant belongs. As a retaliation, the present false allegations are being

raised. In fact, there was no compulsion or force in collecting amounts. Contributions and donations were solicited for the flood victims. That innocuous attempt is now sought to be pictured as extortion and crime. The petitioner does not deserve the trauma of arrest and detention. He may be granted anticipatory bail, it is prayed.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that all available indications suggest the complicity of the petitioner and it was not an innocuous act of good Samaritans to help the cause of the victims of the flood as it is attempted to be made out.

4. The case diary has been placed before me. I have perused the same. I find absolutely no reasons which would justify the invocation of the extraordinary equitable discretion available to this Court under Section 438 Cr.P.C. This, I am satisfied, is a fit case where the petitioner must appear before the learned Magistrate having jurisdiction or the Investigating Officer and then seek regular bail in the normal and ordinary course.

5. This application is, in these circumstances, dismissed, but I may hasten to observe that if the petitioner surrenders before the Investigating Officer or the learned Magistrate and applies for bail after

giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

(R.BASANT, JUDGE)

rtr/-